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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/554,391

10/24/2005

Hermann Briel

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DENNISON, SCHULTZ & MACDONALD  
1727 KING STREET  
SUITE 105  
ALEXANDRIA, VA 22314

EXAMINER

PARSLEY, DAVID J

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/554,391	<b>Applicant(s)</b> BRIEL, HERMANN	
	<b>Examiner</b> DAVID J. PARSLEY	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1-5-06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **Detailed Action**

### ***Preliminary Amendment***

1. Entry of applicant's preliminary amendment dated 10-24-05 into the application file is acknowledged.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 26, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claims 3-4, 6 and 22-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "...at least for the most part..." in each of these claims renders these claims indefinite in that it is unclear to what portion of the device constitutes the "most part" as claimed.

Claim 3 recites the limitation "the base area" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "discharge jet" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "one longitudinal side" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the temperature control" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the temperature control" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "in particular" in line 5 renders the claim indefinite in that it is unclear to whether other angles for the angle alpha are claimed.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "preferably" in line 5 renders the claim indefinite in that it is unclear to whether other angles for the angle beta are claimed.

Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant claims multiple claim ranges and therefore it is unclear to which range is claimed.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "in particular" in line 7 renders the claim indefinite in that it is unclear to whether other temperatures are claimed.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11, 13, 16-17, 19-20, 24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,657,768 to Snowden.

Referring to claims 1 and 16-17, Snowden discloses a scalding tunnel for slaughter animals, with steam discharging nozzles - at 70-72, mounted in the scalding tunnel - see figure 3, and along a path of conveyance of the slaughter animals - see figure 3, the nozzles are multicomponent nozzles with at least one connection for steam and one connection for water – at 46 and column 5 lines 17-33, whereby the nozzles discharge a mixture of steam and water that is sprayed therein – see figure 3 and column 5 lines 17-33.

Referring to claim 2, Snowden discloses the multicomponent nozzles are arranged in the scalding tunnel in such a way that atmosphere present in the scalding tunnel can be circulated - see figure 3.

Referring to claim 3, Snowden discloses the multicomponent nozzles are arranged for the most part in the base of the scalding tunnel - see figure 3.

Referring to claim 4, Snowden discloses the multicomponent nozzles are oriented in such a way that their discharge jet is directed with a substantial component longitudinally of the scalding tunnel - see figure 3.

Referring to claim 5, Snowden discloses one part of the multicomponent nozzles is directed with components in the direction of the conveyance of the slaughter animals in the scalding tunnel – see at 70,72 in figure 3, and another part of the multicomponent nozzles is directed with components opposite to the direction of conveyance of the slaughter animals in the scalding tunnel - see at 70-72 in figure 3.

Referring to claim 6, Snowden discloses in plan view the multicomponent nozzles are arranged on one longitudinal side of the scalding tunnel - see figure 3.

Referring to claim 7, Snowden discloses a volume control is provided for the amount of steam supplied to the multicomponent nozzles - the pipes carrying the steam - see figure 3.

Referring to claim 8, Snowden discloses a volume control is provided for the amount of water supplied to the multicomponent nozzles - the pipes carrying the water - see figure 3.

Referring to claim 9, Snowden discloses a control valve provided for the amount of steam supplied to at least one multicomponent nozzles – see figure 11 of U.S. Patent No. 3,631,563 to Snowden referenced in column 4 lines 18-28.

Referring to claim 10, Snowden discloses only a part of the multicomponent nozzles is included in the temperature control – see figure 3.

Referring to claim 11, Snowden discloses all of the multicomponent nozzles are included in the temperature control - see figure 3.

Referring to claim 13, Snowden discloses the multicomponent nozzle is a dual component nozzle – see figure 3 and column 5 lines 17-33.

Referring to claim 19, Snowden discloses the mixture sprayed through the multicomponent nozzles is at a temperature between 55 and 70 degrees Celsius - see column 6 lines 10-35.

Referring to claim 20, Snowden discloses the multicomponent nozzles are arranged in the scalding tunnel in such a way that a circulation of the atmosphere present in the scalding tunnel is effected to such a degree that homogenous or substantially homogenous humidity conditions prevail in the scalding tunnel - see columns 4-6.

Referring to claim 24, Snowden discloses the nozzles are supplied with saturated or supersaturated steam – see columns 4-6.

Referring to claim 26, Snowden discloses the nozzles are supplied with water at between 20 and 70 degrees Celsius – see column 6 lines 1-35.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snowden as applied to claims 1 or 16 above, and further in view of U.S. Patent No. 5,326,308 to Norrie.

Referring to claims 12 and 21, Snowden does not disclose the scalding tunnel is designed without ventilation for circulating its internal atmosphere. Norrie does disclose a scalding tunnel designed without ventilation for circulating its internal atmosphere - see figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Snowden and add the no ventilators of Norrie, so as to allow for the direction of the sprayed substances to be better controlled during use.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snowden as applied to claim 1 above, and further in view of the embodiment of figure 11 of Snowden.

Referring to claims 14-15, Snowden does not disclose the multicomponent nozzle is oriented to the horizontal in such a way that its direction of longitudinal discharge, relative to the horizontal describes an angle between 5 and 15 degrees and an angle relative to the vertical of between 30 to 50 degrees. The embodiment of figure 11 of Snowden discloses a movable nozzle that can be moved into the positions with respect to the horizontal and vertical – see figure 11 and column 9 lines 47-70. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Snowden and add the movable nozzle of the embodiment of figure 11 of Snowden, so as to allow for the device to be used on animals of differing sizes and orientations.

Claims 18 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snowden as applied to claim 16 above, and further in view of U.S. Patent No. 6,019,033 to Wilson et al.



Art Unit: 3643

Referring to claim 18, Snowden does not disclose the temperature of the sprayed mixture is above 100 degrees Celsius. Wilson et al. does disclose the temperature of the steam mixture is above 100 degrees Celsius – see column 7 lines 35-45. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Snowden and add the temperature of the mixture being above 100 degrees Celsius of Wilson et al., so as to allow for the device to properly decontaminate the carcass.

Referring to claim 23, Snowden does not disclose the temperature of the sprayed mixture is above 120 to 160 degrees Celsius. Wilson et al. does disclose the temperature of the steam mixture is above 100 degrees Celsius – see column 7 lines 35-45. Snowden as modified by Wilson et al. does not disclose the temperature is specifically between 120 and 160 degrees Celsius. However, it would have been obvious to one of ordinary skill in the art to take the device of Snowden as modified by Wilson et al. and add the temperature of the mixture being between 120 and 160 degrees Celsius, so as to allow for the device to properly decontaminate the carcass.

Claims 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snowden as applied to claim 16 above.

Referring to claim 22, Snowden does not specifically disclose the steam is supplied to the nozzles at between 2 and 6 bars. However, it would have been obvious to one of ordinary skill in the art to take the device of Snowden and add the pressure of the steam supplied to the nozzles being between 2 and 6 bars, so as to allow for the device to have enough pressure to force the steam out of the nozzles in a spray pattern.

Referring to claim 25, Snowden does not disclose the water supplied to the nozzles is at 0.2 bar. However, it would have been obvious to one of ordinary skill in the art to take the device of Snowden and add the water pressure of 0.2 bars, so as to ensure that the water is at sufficient pressure to be sprayed from the nozzles.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to carcass scalding devices/methods in general:

U.S. Pat. No. 3,689,958 to Dillon - shows carcass spraying device

U.S. Pat. No. 3,703,021 to Sharp - shows carcass spraying device

U.S. Pat. No. 3,748,691 to Snowden – shows carcass spraying device

U.S. Pat. No. 4,731,908 to Thorsen – shows carcass spraying device

U.S. Pat. No. 4,965,911 to Davey – shows carcass spraying device

U.S. Pat. No. 5,045,021 to Borup - shows carcass spraying device

U.S. Pat. No. 5,651,730 to McGinnis et al. - shows carcass spraying device

U.S. Pat. No. 5,980,375 to Anderson et al. - shows carcass spraying device

U.S. Pat. No. 6,142,861 to Buhot et al. – shows carcass spraying device

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PARSLEY whose telephone number is (571)272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David J Parsley/  
Primary Examiner, Art Unit 3643